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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,571	02/11/2002	Bart Dahncke	971-150	5124
7590 10/12/2006				
Michael T. Sanderson, Esq. King & Schickli, PLLC 247 North Broadway Lexington, KY 40507			EXAMINER CHEN, ALAN S	
			ART UNIT 2182	PAPER NUMBER

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/073,571	Applicant(s) DAHNEKE ET AL.	
	Examiner Alan S. Chen	Art Unit 2182	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 17-33 is/are rejected.
- 7) ☒ Claim(s) 8-16 and 34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/20/2006 has been entered.

Response to Arguments

2. The affidavit filed on 06/05/2006 under 37 CFR 1.131 is sufficient to overcome the Moyer et al. reference. The prior art rejection using Moyer et al. is hereby withdrawn.

Applicant's arguments, filed 07/20/2006, with respect to the 35 U.S.C. §112 rejection of claims 1,17,18,20 and 21 and corresponding dependent claims have been fully considered and are persuasive. The 35 U.S.C. §112 rejection of claims 1,17,18,20 and 21 has been withdrawn.

However, upon further consideration, a new ground(s) of rejection is made in view of US Pat. No. 6,167,538 to Neufeld et al. (*Neufeld*) and US Pat. No. 6825941 to Nguyen et al. (*Nguyen*).

Claim Objections

3. Claim 20 is objected to because of the following informalities: line 5, "computer device" should be —computing device—. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-7, 17-23, 25 and 27-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Neufeld.

Independent Claims

10. Per claims 1,21,27 and 29, Neufeld discloses a method for maintaining a computing device connected or not to a peripheral device (*Figs. 4 and 5*), comprising: receiving an indication of an end of persistence for a peripheral device (*Fig. 4A, detects if driver of hardware resource is shutdown, the shutdown can be when the hardware resource associated with driver is powered-off, fails or even disconnected; Column 8, lines 8-18*) regardless of whether the peripheral device is connected to the computing device (*Column 8, lines 8-18, powered-off and failed states are where the hardware resource is still connected, disconnected state is when the hardware resource is physically disconnected*); by the computing device (*Fig. 1, element 310 or 320*), monitoring for an event/indication related to the end of persistence (*Column 8, lines 9-15, performance monitors, elements 310 and/or 320 monitor for an "unregister message", indicating to the performance monitors of a shutdown*); by the computing device, detecting the event; (*Fig. 6, computing device which performance monitors reside, detect unregister message*) and fully automatically removing support information

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associated with the peripheral device based on detection of the event related to the end of persistence (*Column 8, lines 10-20, when unregister message is received by performance monitor, the prior registration information of the hardware resource is removed; Column 10, lines 25-40, this registration information includes all the services and events related to the hardware resource that the performance monitor was monitoring*), wherein the monitoring, the detecting, and the fully automatically removing support information occurs regardless of whether the computing device is networked or maintains a network connection (*Column 8, lines 15-20, hardware resource is unregistered based on if it is powered-off or failed while connected or when it is physically disconnected*).

11. Per claims 17 and 28, Neufeld discloses a computer readable medium comprising instructions for maintaining a computing device (*Fig. 6; Column 11, lines 60-65 discloses expressly the invention for Neufeld can be embodied as a computer readable code on a computer readable medium*), for implementing the limitations as specified in above rejection of claims 1,21,27 and 29.

6. Per claims 18, Neufeld discloses a computing device configured as a client computer (*Fig. 6 is a client computer*), comprising: memory (*Fig. 6, elements 620 and 622*); and a provider set of executable instructions (*Fig. 6; Column 11, lines 60-65 discloses expressly the invention for Neufeld can be embodied as a computer readable code on a computer readable medium*) operable for implementing the limitations as specified in the above rejection of claims 1,21,27 and 29.

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7. Per claims 20, Neufeld discloses a system (*Fig. 6 in its entirety is a computing system*), comprising: a peripheral device (*Fig. 6, elements 604-612*); and a computing device (*Fig. 6, element 600*) having memory (*Fig. 6, element 620 and 622*) and capable of accessing the peripheral device (*Fig. 2, performance monitor resident on computing device accesses peripheral devices, elements 206 and 208*), and the computing device further performing the limitations as specified in limitations in the above rejection of claims 1,21,27 and 29.

Dependent Claims.

8. Per claims 2-4 and 19, Neufeld discloses claims 1 and 18, Neufeld further disclosing the storage of an indicator of the end of persistence (*note, due to the breadth of the claimed "indicator", anything that associates/relates to the end of persistence reads upon this claim. Neufeld discloses, receiving messages the deal with shutdown of the peripheral device. These messages are the indicators and are at least temporarily stored to be processed*); storing an indicator comprises storing the indicator in a database of configuration settings associated with the computing device (*Column 10, lines 12-18 discloses have a list of registered devices, e.g., database of devices; the message received for unregistering a device pertains to one of the devices stored on the list*), the monitoring for an event comprises monitoring the database of configuration settings associated with the computing device (*the list of devices is monitored to determine if a message to unregister one of them is received*).

9. Per claims 5-7, Neufeld discloses claim 1, wherein the act of monitoring for an event comprises running an event monitoring thread (*Column 7, lines 35-45 disclose the*

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performance monitors being application programs that run processes, e.g., threads, which monitor for events). Fig. 2 and 3 show that the hardware or software resources are already existent on the device when the performance monitor registers the device, therefore the resources were already installed prior to the performance monitor begins monitoring, whether it requires a reboot to detect the resources or not.

10. Per claims 22 and 30, Neufeld discloses claims 21 and 29, wherein the monitoring for the event related to the end of persistence further includes assessing whether a volatile data and time has been reached (*Column 7, lines 30-35, time stamping of the events in the performance monitor is maintains so that the performance monitor can use it to determine states of the peripheral device, i.e., failure, inactivity, etc.*).

11. Per claims 23 and 31, Neufeld discloses claims 21 and 29, further including setting the end of persistence of the peripheral device (*unregister device message sets the end of persistence of the device relative to the performance monitor*).

12. Per claims 25 and 32, Neufeld discloses claims 23 and 31, wherein the setting occurs during installing of the peripheral device on the computing device (*Fig. 2; Column 6, lines 9-35, performance monitors activated as soon as drivers for the resources are installed, if a failure occurs during installation while the drivers are running, the unregister device message will be received*).

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

15. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

16. Claims 24,26 and 33 are rejected under 35 USC 103(a) as being unpatentable over Neufeld in view of US Pat. No. 6,825,941 to Nguyen et al. (Nguyen).

Neufeld discloses claims 23,25 and 32.

Neufeld does not disclose expressly installing the peripheral device on the computing device includes selecting a peripheral device icon or invoking of a plugin.

Nguyen discloses that during installation of drivers, particularly for printers, selection of an icon for a printer is made (*Column 60, lines 15-25*). Nguyen further discloses drivers being customized with plugins (*Column 8, lines 2-25*).

Neufeld and Nguyen are analogous art because they are from similar problem solving in the installation of peripheral drivers.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to select an icon and invoke a plug-in during driver installation.

The suggestion/motivation for doing so would have been Neufeld expressly discloses the ability to monitor printers (*Fig. 6, element 606*), printers requiring installation of specific drivers. Since the performance monitor must interact with the driver (*Fig. 1*), it is clear that a plug-in allows the printer driver to be customized to let the performance monitor interact with the driver must be developed. Furthermore, standard operating systems, such as the Microsoft OS that Nguyen discloses has a printer icon selection mechanism built in during the installation of the driver.

Therefore, it would have been obvious to combine Neufeld with Nguyen for the benefit of customizing a third party printer driver for interfacing a printer as well as conforming with standard driver installation process in an operating system, whereupon an icon selection for the peripheral device is made.

Allowable Subject Matter

17. Claims 8-16 and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is the statement of reasons for the indication of allowable subject matter: per claims 8-16, the prior art disclosed by the applicant and cited by the Examiner fail to teach or suggest, alone or in combination, ***all*** the limitations of the parent claims (*claims 1 and 7*), particularly providing a representation of the relative physical location of the peripheral device, receiving an indication for access to the peripheral device from the representation, receiving support information associated from the peripheral device, installing the retrieved support information associated with the peripheral device, and further when removing the support information, removing the support information retrieved and installed on the computing device; per claim 34, the prior art disclosed by the applicant and cited by the Examiner fail to teach or suggest, alone or in combination, ***all*** the limitations of the parent claims (claims 29 and 31-33), particularly the providing a representation of the relative physical location of the peripheral device.

Conclusion

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan S. Chen whose telephone number is 571-272-4143. The examiner can normally be reached on M-F 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim N. Huynh can be reached on 571-272-4147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ASC
09/20/2006

Alan E. V...
9/20/06